

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE K.C. BHANU

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WRIT PETITION NO : 5477 of 2005

Between:

M. Devaiah,
Suryapet, Nalgonda District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C.

Miryalaguda, Nalgonda District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or directions, more in the nature of Writ of Mandamus, declaring the Office Order dated 28-2-1991 as illegal and arbitrary and set aside the same with all consequential benefits including arrears and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.GOVINDA RAJULU

Counsel for the Respondent: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court made the following :

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ORDER:
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The petitioner is working as a driver at in the respondent-Corporation. He was issued a charge memo on 20-09-1990 and after receiving the explanation of the petitioner, the final orders were passed on 28-02-1991 imposing the penalty of withholding his annual increments for a period of six months with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

The learned Counsel for the petitioner relied on a judgment of the Supreme Court in ***Kulwant Singh Gill v. State of Punjab*** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the impugned order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 13 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in *Kulwant Singh Gill v. State of Punjab* (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of annual increment without cumulative effect. The petitioner is not entitled to the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But he is entitled to get increments on notional calculation from the date of this order to which he is

entitled, as he has been imposed penalty of reduction of annual increment without cumulative effect.

The writ petition is accordingly disposed of with the above observations.

17-03-2005

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Copy to:

1. The Depot Manager, A.P.S.R.T.C.

Miryalaguda, Nalgonda District.

2. Two CD copies.